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a lower arm having a lower end carrying a pedal and operatively connected to the upper arm for selected movement relative to the upper arm;

a first pin secured to the lower arm and laterally extending into the first guide slot;

a second pin secured to the lower arm and laterally extending into the second guide slot;

and

a drive assembly operatively connected to the lower arm to selectively move the lower arm relative to the upper arm and including:

a screw carried by the upper arm;

a nut secured to the lower arm, laterally extending through the drive slot from the lower arm to the screw, threadably engaging the screw, and adapted to axially move along the screw upon rotation of the screw; and

a motor operatively connected to the screw to selectively rotate the screw.

34. **(previously presented)** The adjustable control pedal according to claim 33, wherein the first and second guide slots are formed on opposite sides of the drive slot.

35. **(previously presented)** The adjustable control pedal according to claim 33, wherein the first and second guide slots are nonparallel.

36. **(previously presented)** The adjustable control pedal according to claim 35, wherein the first and second guide slots are inclined.

37. **(previously presented)** The adjustable control pedal according to claim 33, wherein the drive slot is inclined.

REMARKS

In the Office Action mailed July 17, 2003, the Examiner rejected claims 1 to 5 and 22 to 37. The rejections are each respectfully traversed. This Amendment "C" cancels no claims, amends claims 1 and 23, and adds new claims. Accordingly, claims 1 to 5 and 22 to 37 remain pending in this application.

Claims 1, 5, 22 to 26, 30 to 33 and 37 were rejected under 35 U.S.C. 103(a) as unpatentable over Willemsen et al. (US 6,151,986). The examiner stated that the embodiment of figure 10 of Willemsen et al disclose everything but “the guide slot 86 is not formed in the upper arm” and “it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the slot in the upper arm and the pin in the lower arm, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.”

Such “a mere reversal of the essential working parts” asserted by the examiner renders the device of Willemsen et al. inoperable and thus it would not have been obvious to one having ordinary skill in the art at the time the invention was made to place the slot in the upper arm and the pin in the lower arm.” While it may arguably be obvious to reverse a pin/slot connection which is a structural connection between two parts, such a structural connection is not present in the Willemsen et al. device because the slot 86 is merely a clearance opening for the pin 16. The pin 16 is rigidly secured to the upper arm 12’ and is connected to a brake booster rod 82 (as shown in figure 1) so that when the pedal 20 is depressed, the upper arm 12’ pivots the pin 16 about axle 66 to actuate the brake booster rod 82 and apply the brakes. When the position of the pedal 20 is adjusted, the pin 16 does not move and the brakes are not applied. The slot 86 is provided so that the lower arm 18’ can be moved to adjust the pedal 20 without the upper arm 18’ engaging the pin 16 to inadvertently apply the brakes during pedal adjustment. The slot 86 is merely a clearance opening. See column 6, lines 55 to 62. If the pin 16 and slot 86 were reversed as suggested by the examiner, the pin 16 would be secured to the lower arm 18’ and would move to actuate the brakes when ever the pedal location is adjusted. Such a condition clearly could be disastrous as Willemsen et al. were aware and stated that the slots are in the lower pedal “in order to prevent actuation of the brakes during pedal 20 adjustment.” Specification, column 6, lines 58 to 60. Reconsideration and withdrawal of the rejection is requested.

Claims 1 to 5, 26 to 29, 30 to 33 to 36 were rejected under 35 U.S.C. 103(a) as unpatentable over Sitrin (US 4,875,385) in view of Willemsen et al. (US 6,151,986). The examiner stated that “Sitrin discloses the claimed invention in the embodiment of Figure 3

except for the drive slot being straight” and “it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pedal of Sitrin with a straight guide slot, as taught by Willemsen et al. as a means of altering the range of adjustability of the pedal location and the mechanical advantage of the pedal.”

Claim 1 and claims dependent therefrom are allowable because they each include the limitations of “wherein the upper arm pivots about a pivot axis which is spaced apart from the drive slot” and “a screw carried by the upper arm.” Sitrin discloses an upper arm 36 which pivots about pin 52 which moves along slot 36e and thus is not spaced apart from the drive slot 36e. Sitrin also discloses securing the drive screw 46 to the fixed position mounting bracket 34 so that the drive screw is fixed in position and is not carried by the pivoting upper arm 36. No prior art of record discloses or reasonably suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

Claim 26 and claims dependent therefrom are allowable because they each include the limitations of “wherein the upper arm pivots about a pivot axis which is at a fixed position relative to the upper arm” and “a screw carried by the upper arm.” Sitrin discloses an upper arm 36 which pivots about pin 52 which moves along slot 36e in the upper arm and thus the pivot axis is moves relative to the upper arm 36. Sitrin also discloses securing the drive screw 46 to the fixed position mounting bracket 34 so that the drive screw 46 is fixed in position and is not carried by the pivoting upper arm 36. No prior art of record discloses or reasonably suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

Claim 33 and claims dependent therefrom are allowable because they each include the limitations of “wherein the upper arm pivots about a pivot axis which is at a fixed position relative to the upper arm and space apart from the drive slot” and “a screw carried by the upper arm.” Sitrin discloses an upper arm 36 which pivots about pin 52 which moves along slot 36e in the upper arm and thus the pivot axis is moves relative to the upper arm 36. Sitrin also discloses an upper arm 36 which pivots about pin 52 which moves along slot 36e and thus is not spaced apart from the drive slot 36e. Sitrin further discloses securing the drive screw 46 to the fixed

position mounting bracket 34 so that the drive screw is fixed in position and is not carried by the pivoting upper arm 36. No prior art of record discloses or reasonably suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,

PORTER, WRIGHT, MORRIS & ARTHUR LLP

October 16, 2003

A handwritten signature in black ink, appearing to read "Richard M. Mescher", written over a horizontal line.

Richard M. Mescher, Reg. No. 38,242

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